REMARKS

Reconsideration and withdrawal of the rejections of the claimed invention is respectfully requested in view of the amendments, remarks and enclosures herewith, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1, 2 and 6-12 are pending in this application. No new matter has been added by this amendment.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. THE 35 U.S.C. 112, 1st PARAGRAPH REJECTION HAS BEEN OVERCOME

Claims 3 and 4 were rejected as allegedly lacking enablement for the full scope of the claimed invention. While the applicants do not agree with this assessment of claims 3 and 4, reference to prevention has been deleted from corresponding amended claim 2, 6-9 and 11.

III. THE 35 U.S.C. 102(b) REJECTION HAS BEEN OVERCOME

Claims 1-5 were rejected as allegedly being anticipated by Fritsche et al. (EP 1 250 852 – "Fritsche") or Kang et al. (U.S. Patent 5,948,460). The applicants request reconsideration of this rejection for the following reasons.

MPEP 2131 states in part that "A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)" and that "The identical invention must be shown in as complete detail as is contained in the…claim." see *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d, 1913, 1920 (Fed. Cir. 1989).

The previously presented claims could have been readable upon a single triterpene compound of formula (1). However, for the claims as amended, neither Fritsche or Kang meets this requirement.

The claims as amended are directed toward pharmaceutical compositions which also require a pharmaceutically acceptable carrier or excipient which are neither taught or suggested by the Fritsche or Kang references as Fritsche is related to the concentration of ursolic acid and oleanoic acid while Kang is related to the use of ursolic acid and oleanoic acid as sweeteners. (Note that new claims 9 and 10 require the presence of hederagenin in the composition).

As was recognized by the 35 U.S.C. 112, first paragraph rejection, a key component of the composition is that it is useful for improving brain function and treating mild cognitive impairment and dementia. Neither Fritsche or Kang teaches compositions which have these properties.

As all elements of the applicants' invention have not been taught by either Fritsche or Kang, the applicants' claims as amended are not anticipated.

CONCLUSION

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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